

Adult Protective Services Newsletter

Reporting on Wisconsin's Adult Protective Services Modernization Project

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[HTTP://WWW.DHFS.STATE.WI.US/APS/INDEX.HTM](http://www.dhfs.state.wi.us/aps/index.htm)



Special points of interest:

- Elder Abuse I-Teams – what they are and why there is such a need for them in our communities.
- Don't forget the WI Elder Abuse and APS Listserv – Join Now!
- APS Modernization Project's input on proposed changes to Wisconsin's guardianship statute.
- WI speaks up about the APS Modernization Project Report!

Meet this past summer's Interns!

During this summer of 2002, the APS Modernization Project was very fortunate to benefit from the assistance of two excellent, highly committed college students. Allow us to introduce you to them:

1. Jenny Gassman-Pines: I am happy to have interned for Betsy Abramson and Jane Raymond this summer. Originally from Madison, I am a double major in English and Women's studies at Wesleyan University, where I just finished my junior year. Having recently decided to apply to law school in the fall, I am excited to have worked in public interest law this summer.

Current research shows that financial exploitation of

the elderly is a growing concern, both within our state and throughout the country. Unfortunately, because of the invisible nature of the problem, such exploitation is difficult to prevent, identify and prosecute. My internship consisted of researching general and legal issues surrounding financial exploitation of the elderly in order to create resources for counties in Wisconsin, increase awareness of financial elder abuse and better our state's responses to reported incidents. Through this work, I hope to increase the knowledge of this type of abuse to assist a wide range of Wisconsin professionals in combating financial exploitation with all of the resources

available.

2. Wendy Soref: I am a junior at Cornell University. I am originally from Madison and I was happy to be home for the summer, working as a student intern in the Bureau of Aging and Long Term Care Resources. Under the supervision of Jane Raymond and with the help of many others, my primary responsibility was the construction of a manual addressing elder abuse as it intersects with the cruelty and mistreatment of animals.

Recent research provides compelling evidence that those who abuse animals are likely to hurt people, too. In addition, sometimes an elder's devotion to his or her

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Interdisciplinary Teams for Elder Abuse

On November 1, 2001, the Department notified lead elder abuse agencies that a total of \$2,025,000 (an overall increase of 1.5 million dollars from the prior year) would be allocated by formula to lead elder abuse agencies to expand services to victims of elder abuse, neglect and exploitation for Calendar Year 2002. As a condition of receipt of the

funds, counties must agree to a program outcome of developing an Interdisciplinary Team ("I-Team") to address elder abuse issues. And to assist counties in developing their I-Teams, the department asked Elder Law Attorney Betsy Abramson to develop an I-Team Manual and to conduct trainings for interested counties. The manual was completed in

February and one camera-ready copy was mailed to every elder abuse lead agency. In addition, the manual is available electronically; interested individuals are invited to contact Betsy at abramson@mailbag.com for a copy. The trainings started in late April with a total of 17 scheduled – from Ashland to Kenosha and Dodgeville to Rhinelander!

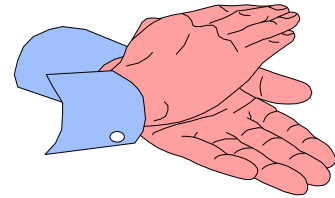
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Summer Interns (continued from page 1)

companion animal will cause him or her to remain in an abusive situation because alternate options (like a shelter or a nursing home) are not accessible to the pet. Recently, researchers have also turned their attention to the problem of animal hoarding in older populations. As those who have encountered such situations already know, animal hoarding is a disorder that contributes to the elder's self-neglect while creating a dangerous, inhumane environment for the animals.

My challenge was to distill the relevant research into a readable, informative final product that includes practical suggestions. Additionally, Randall Lockwood, the Vice President of Research and Educational Outreach at the Humane Society of the United States offered the agency and me his guidance and resources. I hope my work will assist lead elder abuse agencies in working cooperatively with animal control officers and/or Humane Society staff.

Thanks for all your hard work interns!



Join Wisconsin's Elder Abuse & Adult Protective Services Listserv!

Begun in May 2001, Wisconsin's Elder Abuse and Adult Protective Services listserv has been designed to improve Wisconsin's Adult Protective Services and Elder Abuse systems and the responses of intersecting systems (e.g., justice, health care, domestic violence) to adults at risk, by providing an electronic forum for interdisciplinary discussion and exchange of ideas. The listserv provides a forum for raising Wisconsin-specific questions, discussing issues, sharing best practices and exchanging resources and training opportunities. With currently over 250 members, it serves practitioners, administrators, educators, health care professionals, researchers, advocates, attorneys, law enforcement officers (including prosecutors and judges) and policymakers who want to learn about adult protective services and elder abuse in Wisconsin. It was developed for professionals, including policymakers, in Aging, Human Services, Adult Protective Services, Law Enforcement, Health Care, Domestic Violence, Sexual Assault, Elder and Disability Law, Court Administration and Research/Education.

Examples of the kinds of postings that have been or could be raised on this listserv include: (a) specific case discussions; (b) protocols for certain types of cases; (c) sharing a new-found resource; (d) training opportunities; (e) use of an Interdisciplinary Team; (f) ideas for system changes (e.g., legislative changes, court challenges, funding needs, etc.); (g) legal questions about adult protective services, elder abuse, criminal justice

actions, etc.

To join the listserv, contact the listserv manager by phone, mail or e-mail: Betsy Abramson, Attorney and Elder Law Consultant, 16 N. Carroll St., Suite 500, Madison, WI 53703, (608) 663-3599-phone, (608) 250-4370-FAX, abramson@mailbag.com

Your request to subscribe should include your name, agency, address, phone and e-mail address, as well as information indicating which of the professions identified previously in this article, you belong to and explaining your interest and involvement in adult protective services and/or elder abuse. After approving your request, Betsy will enter your name into the listserv and send you an e-mail with the protocols.

Note:

***You must have
an individual
e-mail address
to participate
in the listserv.***



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Elder Abuse I-Teams (continued from page 1)

The establishment of an Interdisciplinary Team to address issues concerning both cases and systems issues within a county's elder abuse program is a very important development. I-Teams are created for a variety of reasons. For some counties, I-Teams start when there is a need for informal resources to be developed, agencies acknowledge a need to know what other agencies do and how they might be of help. Or there may be a need for better education on the prevention of abuse before incidents occur. Sometimes I-Teams begin after frequent complaints about what someone (or some agency) does not or will not do (e.g., police, court commissioners, public health, etc.).

Most often, I-Teams are developed for positive reasons. For example, potential team members have an interest in becoming aware of the legal, financial and social ramifications of elder abuse and they want to bring together those searching for help for clients with those who can furnish part of the answers. Professionals recognize the inability of many older people to advocate for themselves and they sense a strong interest in helping to fill the cracks through which too many elder victims fall.

Additionally, I-Teams often develop at a time when there is a shift in the community's thinking about a problem such as when the community decides that they need to treat behaviors such as slapping and stealing – “even” among family members – as a crime and they have a strong desire to debunk the myth that “nothing can be done.” In one community, for example, this happened when the investigation following the murder of an elderly woman showed that there had been numerous contacts with the health care system and on-going observations of violence by the neighbors – but no one had contacted either the lead elder abuse or domestic violence agencies. At that point, the community realized they needed to increase public and professional awareness to ensure appropriate referrals for domestic violence in later life.

But mostly, the development of I-Teams is motivated by the growing number of older adults, a recognition that elder abuse has for too long been a “hidden problem,” an acknowledgment of the complexity of the issue of elder abuse, a growing outrage over the amount of violence that is accepted in our society and the equally growing fear of what might happen to us as we age. All of these factors contribute to the desire to build cooperation and help agencies discover the unique parts they can play to make their community better for everyone.

The goal of the Elder Abuse Interdisciplinary Team is to improve each lead elder abuse agency's response to victims of abuse, neglect and exploitation. An I-Team is a group of selected professionals from a variety of disciplines who meet regularly to discuss and provide consultation on specific cases of elder abuse, neglect or exploitation. An I-Team uses the varied backgrounds, training and philosophies of the different professions to explore the best service plan for the cases involved.

The goals of I-Teams are to:

- increase awareness of elder abuse in the community, especially amongst professionals who regularly work with and serve the elderly;
- as a result of the increased awareness in the community, increase the reports of victims made to the lead elder abuse agency;
- coordinate the efforts of the various agencies dealing with elder abuse and build a better understanding and respect for all agencies involved;
- identify service gaps and define ways the public and private sectors can work together to meet these needs to provide the best services to the elderly population; and
- decrease elder abuse problems by developing appropriate resources, implementing preventative strategies and/or identifying and/or intervening in cases earlier.

Studies have shown that decisions made by groups are more effective than those made by individuals when

no one person has the solution, but each person can contribute to a solution. Elder abuse cases often include highly functionally impaired victims, more than one type of abuse or neglect, and complex family dynamics. Given the complexity of these cases, and the fact that there are often gaps in the services needed to assist victims, a broad range of professionals looking at a case and planning possible interventions is more likely to arrive at effective results. Indeed, I-Teams can help eliminate or at least reduce many barriers to effective action. Different agencies and professionals working in relative isolation can do more harm than good. Rather, I-Teams improve cooperation and coordination between agencies and create a broader range of strategies, solutions and perspectives for elder abuse cases. Each discipline represented on the team has specific skills and strategies from his or her own background and training. An I-Team discussion will highlight that various disciplines view the problem in a different light. An I-Team can be an effective tool for monitoring the services network (e.g., systems breakdown or gaps in services). It generally results in less duplication of services and fewer gaps in service, improved collaboration for training and funding opportunities and because of its larger power base, an I-Team can also successfully affect change through advocacy efforts. (For example, in San Francisco, in an attempt to resolve situations in which suspected abusers impeded workers from interviewing suspected victims, the teams convened a meeting between caseworkers and a representative from the police department to determine what actions could be taken.)

I-Teams can be one of three types:

- (1) case-specific teams - addressing specific reports/cases of abuse and neglect, helping workers sort through options and strategize on effective interventions;
- (2) coordinated community response teams – developed in the domestic violence movement, these teams only address systemic problems; and

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Elder Abuse I-Teams (continued from page 3)

(3) combined teams – addressing both individual cases and systemic issues. DHFS encourages the development of the third type, the combined team.

Research has shown that the most effective methods for increasing reports of elder abuse are not, contrary to popular opinion, solely mandating all professions to report all cases. Rather, what results in increased reports is both increased community awareness and, equally importantly, a potential reporter's belief that reports will be appropriately and effectively responded to. I-Teams can help ensure both of these factors. Convening teams of a wide range of professions and disciplines, engaging in self-education and then, in turn, education of their colleagues and the community-at-large, will certainly increase awareness. In addition, the effective operation of I-Teams, both for case discussions and to address systemic issues, will improve a community's response.

The training sessions were actually two trainings in one: Abramson provided background on elder abuse and related civil and criminal laws and also gave guidance, exercises and "practice" in effective ways to develop, organize and operate an Elder Abuse I-Team. Overall, the trainings were both well attended and well received. Most were targeted for about four or five counties and participants appeared open-minded and enthusiastic about the value of I-Teams and their potential to provide assistance to their county's elder abuse response system. During the course of the day, trainees identified obstacles to developing I-Teams in their counties and then attempted to design the "ideal team," or as several trainees dubbed it, their *Elder Abuse Dream Team*. One of the most interesting components of the training was when the trainees address two sample cases – but only after they formed new

"practice" teams mixing both county representation and discipline. Abramson noted significantly different responses to the cases depending on the mix in the team. If certain key disciplines were missing (e.g., health care, mental health, law enforcement, domestic violence), the strategies proposed were radically different – proving exactly the point of the I-Team: the best and most creative solutions emerge when the team has the greatest number of disciplines represented.

(Chocolate treats also help.)



Venue Issues in Guardianship

One highly complicated – and also highly confusing – issue in guardianship, protective services (including placement) and mental health law, is the issue of what court may hear petitions for which individuals. While "jurisdiction" refers to whether a certain type of court has authority to hear a specific type of case, "venue" refers to the proper court (in this case, which county) is appropriate to accept an original petition, accept a transferred case and/or rule on a particular matter related to a guardianship, protective services/ placement or mental health services. In addition to the overall complexity of the interrelated laws, the problems have been identified as including at least the following:

(1) "Magnet counties" (e.g., those that have a lot of services and facilities) find that folks are landing in their counties, often in crisis, with

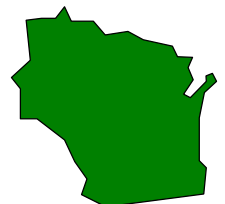
these counties getting "stuck": (a) handling the court proceedings; (b) handling subsequent county APS reviews and annual court *Watts* reviews (including the new *Goldie H.* summary hearings) and (c) paying for any court-ordered services. These counties indicate that they are willing to handle the original court proceedings, but only as long as that means they don't waive the right to have the court reviews and responsibility to pay for needed services assigned to the home county.

(2) Many counties indicate that the system of determining "county of responsibility" takes too long, and makes the "processing county" responsible up until the ultimate determination, giving "sending" counties an incentive to keep appealing. They indicate that they need a relatively quick administrative agency determination system (as opposed

to court determination) that will decide the "county of responsibility" and assign costs to the county ultimately held responsible (including, potentially, retroactively). They suggest therefore that any court review defer to administrative agency (as opposed to being *de novo*).

(3) There is no statutory procedure for the elderly (only secs. 51.22 and 51.437, Wis. Stats., for people with developmental disabilities or chronic mental illness), or any administrative rule listing of factors that go to the question of "residency."

(4) There is no clarity about whether notice must be given to the other county before initiating dismissal, vacating, etc., including whether there must be service on the county clerk, or in situations of change of venue.



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Guardianship Venue Issues (continued from page 4)

(5) Chs. 51, 880 and 55 provisions for venue and responsibility have different rules for different populations and in different settings – and shouldn't – at least as to chs. 55 and 880.

(6) Similarly, there is no clarity or uniformity about any role ("standing") for family, nor the need for notice to the ward and his or her defense counsel.

(7) There is little clarity regarding the guardian's right to exercise domiciliary intent, i.e., may the guardian simply "declare" this or only with the approval of court? With notice to the affected county – and the opportunity to appear and object?

These and other issues have been addressed in a legislative proposal crafted by a DHFS staff member, advocates for the eld-

erly and people with disabilities and several county corporation counsels. The group has prepared a (hopefully) "plain English" explanation of the proposal, complete with examples of situations (e.g., guardian in County A moves Ward from County B to County A) to illustrate how the proposal would address specific situations. This proposal will be submitted for consideration to the Ch. 55 special Legislative Council Committee (see article on page 6).

For more information, contact Betsy Abramson at (608) 663-3599, abramson@mailbag.com. Otherwise, look to future issues of this newsletter for additional updates.

Guardianship Reform

Over a two-year period from 1997 to 1999, the Elder Law Section of the State Bar of Wisconsin had engaged in a comprehensive review of Wisconsin's guardianship statute, ch. 880, Wis. Stats. Section members, supported by the Coalition of Wisconsin Aging Groups-Elder Law Center and Attorney Ann Flynn, systematically reviewed current law and identified areas in need of clarification and change. The all-volunteer group was comprised largely of private practice attorneys, most of whom regularly serve as petitioner's counsel, guardian ad litem and/or defense counsel. Also participating was an attorney working in a Register in Probate's office. After completion of this extensive work, the small group proposed its package to the entire board of the Elder Law Section. The Section accepted many comments and suggestions from a small sub-committee of the DHFS Adult Protective Services Modernization Project, which reviewed the proposal to make sure that the proposed reforms were consistent with their efforts. This small sub-committee was comprised of advocates, a county corporation counsel, a county court commissioner and state staff.

The proposal reflects six sets of goals originally identified by the Elder Law Section:

(1) To reorganize the statute in a more coherent form. The current chapter 880 is outdated and hard to follow. The proposal attempts to provide a more logical format that to some extent tracks the temporal progression of a normal guardianship proceeding

(e.g., petition requirements; pre-hearing issues [e.g., documentation required, physician's report, guardian ad litem requirements, etc.], conduct of the hearing; post-hearing matters; roles and responsibilities of the guardians; removal of a guardian; and modification and termination of guardianships).

(2) To modernize the definition of incompetence. The proposal, drawing heavily on other states' guardianship statutes, adopts a functional view of incompetence, looking at specific functional disabilities that would warrant imposition of guardianship. The definition of incompetence is more narrowly drawn to identify the specific reasons why a guardian is proposed.

(3) To facilitate limited guardianships. Under Wisconsin's current guardianship law, a complete or plenary guardianship is the rule. Under the new statute, it would be the exception. Attempts are made to identify the functional incapacities requiring the imposition of the guardianship process and then to develop remedies that specifically deal with these incapacities. Remedies short of guardianship are also expanded.

(4) To more clearly define the duties and powers of the guardian of the person and estate. These duties and responsibilities are spelled out more clearly in separately delineated sections (e.g., what the guardian must do, what the guardian may do without court authority, what the guardian may do only with court authority, what the guardian may never do). In addition, remedies for failure to carry out these duties and responsibilities are provided.



(5) To modify the processes for short-term guardianships and admissions to facilities. Current statutes do not adequately deal with problems relating to emergency and temporary guardianships and facilities admissions. This proposal attempts to deal with these issues.

(6) To modify accounting procedures to address marital property concerns. When the marital property act was passed, special problems were created for guardians of married wards. This proposal attempts to address these concerns.

Many other issues are also addressed throughout the proposal. The Wisconsin Legislative Reference Bureau is currently creating an official draft of the proposal. It is hoped that it will be available for further review later this fall, with introduction and consideration by the legislature when the legislature reconvenes in January 2003. Ultimately, it is hoped that this comprehensive reform will be passed and then the entire chapter re-numbered into a "ch. 54" – conveniently located between ch. 51's Mental Health Law and ch. 55's Protective Services Law.

Updates will be provided in this newsletter and on the Wisconsin Elder Abuse and Adult Protective Services listserv.

Legislative Council Study to Address Chapter 55 Issues

Fortunately – and fortuitously – for the APS Modernization Project, there is a Legislative Council Study that has begun on the “Recodification of Chapter 55, Stats., Protective Service System.” Legislative Council Study Committees must be requested by legislators and approved by a small group of legislators from both chambers. Legislative Council Study Committees often result in a series of recommendations, including legislative proposals.

This Study Committee was requested by Sen. Joanne Huelsman (R-Waukesha) and is co-chaired by Senator Bob Wirth (D-Kenosha) and Representative Suzanne Jeskewitz (R-Milwaukee). Members include both legislators and “public members.” Some of the public members appointed represent the various groups affected by ch. 55, e.g., aging and disability groups, county elder abuse and adult protective service agencies, county corporation counsel, service providers, professional guardians and family members.

The suggested scope of the study is to review court decisions related to the chapter and determine whether the court decisions should be codified as is or with modifications. The committee will also examine the different interpretations of ch. 55, Stats., that have arisen over time and determine

which practices could be applied statewide. There’s a long list of court decisions, beginning with *Watts* in 1985, that have never been codified into law. These include *D.E.R. v. La-Crosse*, (interpreting “least restrictive environment”) *J.G.S. v. Fond du Lac* (also interpreting “least restrictive environment”), *Roberta A.S.* (guardian authority to force psychotropic medications), *Agnes T.* (the need for protective placement for incompetent individuals who entered nursing homes when competent), *Goldie H.* (the requirement of “summary hearings” in all annual *Watts* reviews), and the recently-released *Judy K.* (interpreting the 1995 Act 92 changes to Ch. 55 – the county “managed services” law).

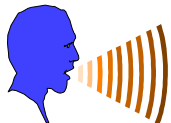
In addition to this list, other items that may be addressed include issues related to: venue; authority to transfer a ward (including to a psychiatric facility); procedures for guardian authority to consent to psychotropic medications – and other medications or treatments – for non-protesting and protesting wards; modifications to nursing home admissions from a hospital, home or out-of-state, inter-state transfers; addressing some inconsistencies and confusing issues in ch. 55 emergency protective placements (as compared to ch. 51 mental com-

mitments); role of the guardian ad litem in initial hearings and annual reviews; *Watts* reviews, some procedural requirements, termination and modification of protective placements; determination of county of fiscal responsibility; and other issues.

A copy of the DHFS Adult Protective Services Modernization Project Report to Secretary Dubé and other material was provided to the Committee for reference. It is hoped that this Committee will address many of the issues identified as well as recommendations proposed in the report.

The Committee members were appointed and the first meeting was August 22, 2002. The next meeting is scheduled for December 9, 2002. The Committee members include APS Modernization Project committee members Betsy Abramson, Todd Liebmann and Dianne Greenley. The staff expects the Committee to finish its work by the end of 2002, with recommendations released soon thereafter.

Additional information may be found at the legislative committee’s website: <http://www.legis.state.wi.us/lc/2002studies/CH55/index.html>



APS Modernization Project Feedback – You Talked; We Listened!



Thanks to all of you who have taken the time to read the August 2001 APS Modernization Project Report presented to DHFS Secretary Phyllis Dubé. The Project staff was eager to receive broad feedback from a range of geographic areas, county workers and the private sector. To that end, the report was widely distributed with the goal of hearing from lots of folks from many perspectives.

After over 400 copies were distributed at the 2001 Elder Abuse and APS Conference in Oconomowoc, Wisconsin in September 2001, project staff

also sent copies, with requests for comments, to the Wisconsin District Attorney’s Association, the Wisconsin Association of County Corporation Counsel, the Wisconsin Chapter of the National Association of Social Workers, the Wisconsin Guardianship Association, several sheriffs and two court commissioners. In addition, the entire report was posted to the Wisconsin APS & Elder Abuse Listerv (approximately 150 members at the time of the posting) and discussed in articles in the National Center on Elder Abuse newsletter, the nationally-

distributed *Victimization of the Elderly and Disabled* journal, the *Wisconsin Guardianship Support Center News* and others. Finally, presentations on portions of the report were made to the State Medical Society of Wisconsin’s legislative committee, the State Bar of Wisconsin’s Elder Law Section, the Wisconsin Social Services Association, the Wisconsin County Human Services Association, the State Coalition on Mental Health, Substance Abuse and Aging and the Wisconsin Personal Services Association and more.

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APS Modernization Project Feedback (Continued from page 6)

The responses were very helpful, providing many interesting comments from a range of disciplines. We heard back “officially” from ten counties, the Wisconsin Counties Human Services Association, a guardianship association, two advocacy groups and an elderly/mental health/alcohol and other drug abuse consortium. A chart, listing each comment, the source of the comment, a reference to the page of the report to which it referred and the project staff response, can be viewed at www.dhfs.state.wi.us/APS/index.htm, the official website of the APS Modernization Project.

In addition to an open-ended request for comments, the Department focused on three specific areas of interest when soliciting input. In the discussion that follows, project staff identified three goals of the APS Modernization Committee, the commenters’ concerns about the goals, and then provided the “Staff response” to each.

? **QUESTION 1: “ADULTS-AT-RISK”**

First, it was asked whether, in its goal to achieve protection across the lifespan, the Project report had properly defined the target population as “adults-at-risk,” by using a definition that is broader than Wisconsin’s historical definition of “vulnerable adults.” The Project proposes to create one uniform reporting system for both the age 18-59 population and the age 60+ population, thereby blending the two current systems – did it? Most of the responses received indicated that the Project had succeeded in achieving the first goal, although there was one concern that the definition was not narrow enough (suggesting that “who is reportable” be restricted to those who were at *immediate* risk of abuse or neglect, or have an impairment or be over age 60). In addition, there were concerns about adequate funding and possible coordination problems because of funding for APS-related programs and services being located in various agencies throughout a given county. One other concern was that historically the different systems have used somewhat different intervention philosophies in addressing abuse against older people, individuals with

developmental disabilities and individuals with mental illness.

Staff response: First, as to the definition, it is important to remember that the definition of “who is reportable” is only the “top of the funnel,” meaning those individuals who are reportable to the system. How the system responds – whether there is further intervention or services (and what kind) will depend on competency, level of risk and immanency of danger. As to comments about the merging of the different target groups, it’s important to remember that the Project report recommended only a one-stop *entry point*; the investigations and any offer of services that follow could still be divided between various county units and/or agencies.

? **QUESTION 2: REQUIRED REPORTING**

The second query asked for a response to the Project report’s recommendation to retain, for the most part, voluntary reporting, but in certain situations (e.g., great danger, very diminished competency), requiring certain professionals to report abuse of adults-at-risk with immunities provided for all good faith reports. While all respondents were interested in increasing the number of reports (i.e., identifying cases early so as to be able to offer appropriate assistance, including prevention, to individuals in abuse, neglect or exploitive situations), some commenters were concerned about the introduction of fines, whether the language delineating circumstances for required reporting was explicit enough, whether there will be funding for the necessary training and the idea of imposing this requirement on private sector professionals.

Staff response: First, staff agrees that training, as well as documentation, will be critical. The recommendations for required reporting in specific, limited situations presenting a risk of significant harm (physical, financial, other) are intended to permit APS workers to look into situations where interventions are likely to be critical to protect the adult-at-risk. The Project’s recommendations also provide for the exercise of discretion so long as the

professional’s decision to not report in situations when reporting is otherwise required is consistent with the intent of the recommendation to protect the individual from further harm. The Project’s recommendations similarly include protection from liability for those who report in good faith. The APS Project staff has prepared several examples of situations to assist APS workers and others in determining whether reporting is required.

? **QUESTION 3: INVESTIGATIONS**

The third general query related to investigations. It asked for feedback on the Project’s report’s proposal that, unlike current law where an elder abuse worker is precluded from involving law enforcement without a competent client’s consent, there were identified certain specific circumstances where an adults-at-risk worker would be *required* to involve law enforcement in the case. Specifically it directs workers to recognize that as incompetence and/or the risk of injury or harm increases, the greater the call for intervention regardless of consent – but with consideration to the risk of harm resulting from the intervention. Several individuals commented that they were uncomfortable with the Project report’s recommended shift in philosophies, resulting in some situations where an elder could not refuse an investigation. Others raised questions of whether the protocols for notifying law enforcement (and law enforcement referrals to adults-at-risk agency) would be uniform statewide, how increased training needs would be addressed and potential problems in gaining law enforcement cooperation and collaboration. One commenter also suggested that the role of regulatory agencies remain as under current law, i.e., that counties not be involved any more than at present for abuse reported in facilities or CBRFs but instead letting the regulatory agency bring in the county as needed.

Staff response: The Project report envisioned that once a report is made to the system, a face-to-face follow-up response *would* occur. Intervention without a competent client’s consent would only occur in situations of immediate/serious risk of harm or actual harm,

APS Modernization Project Feedback (continued from page 7)

Statewide, uniform referral protocols are anticipated and will be ensured through pursuit of statutory or administrative code changes. It is definitely understood that significant trainings will be needed and the state is prepared to assist in providing them. Regarding collaboration, the mechanism by which the Project is directing investigations is through Memoranda of Understanding (MOUs); while the Project report is prescriptive, each county will have the opportunity, in crafting its MOU, to ensure that it reflects county practice. The goals are to recognize that law enforcement has a role in some cases of abuse, neglect and exploitation and to ensure law enforcement's involvement consistently statewide. Since sec. 46.90(3)(a), Wis. Stats., already requires an MOU with law enforcement; the report thus only emphasizes the importance of the statutory requirement. Finally, as concerns regulatory agencies, the report did not recommend a change here; however, there are many situations where a county agency *may* have some responsibility for responding to a facility resident (e.g., abuse by family members or others with an on-going relationship with the victim). Otherwise, facilities should bring in the county as needed, especially when it comes to providing victim services, including safety planning.

? OTHER COMMENTS & RESPONSES

Other significant comments and responses can be grouped as follows:

1. Single-entry point – Most respondents supported the idea of a single-entry point. In responding to some of the questions raised on this issue, staff pointed out that the recommendation is for a one-stop *entrance* point, not a one-stop shop. Project staff also responded that which agency will serve as the single-entry point will be each county's individual decision, that indeed training and publicity are key and acknowledges that counties with unionized workers may not be able to

control job duties or titles.

2. Immunities for Reporting – Overall respondents supported the Recommendations' language in this area. A few responders pointed out the need for cross-references in the statutes governing specific professions. One county representative suggested that ultimately, a "good faith reporter" must always be prepared to defend him or herself, i.e., that there is always a risk in reporting. Staff noted that, unfortunately, there are no "bright lines" but documentation is key. To that end, staff is considering language to be added to the proposal that is similar to the language of sec. 968.075(3)(a)1. b., Wis. Stats., that in determining whether to report, the professional should consider the intent of the section to *protect victims of family violence*, the relative degree of injury or fear inflicted on the persons involved and any history of domestic violence between these persons, if that history can reasonably be ascertained.

3. Training – Everyone, of course, supports training. One respondent specifically lauded the proposal for pursuing required training for guardians ad litem. Others mentioned the value of standard required training for adult-at-risk workers and law enforcement. In response to one comment, staff also clarified that counties are not responsible for the actions of private agencies; rather, they are responsible for coordinating the efforts of certain *public* agencies and for entering into MOUs with some, just as is required under current sec. 46.90, Wis. Stats.

4. Publicity Plan – No one questioned the value of public awareness efforts; rather, questions were raised about funding for it. Staff noted that as of 2002, 10% of new elder abuse direct service funds could be used for outreach and/or training. Also, efforts are underway for development of statewide materials that will ultimately be distributed at the local/county level.

5. Interdisciplinary Teams ("I-Teams") – Most respondents on this issue suggested that the Report's recommendations were too prescriptive both as to frequency of meetings and composition. A few were concerned about increased costs, how to make them effective, how to get folks trained and how to "de-identify" victims under case discussion, particularly in small counties. Staff plans to make the recommendations less prescriptive both as to frequency and composition but the requirement of an I-Team will remain as research has shown that they are very effective in increasing the identification of cases and improving responses to them. Staff agrees about the need for training, which is why the state has produced and distributed to all counties a sample I-Team Manual and is offering training (*see related article in this newsletter*). Regarding confidentiality, staff pointed out that this is why I-Team member agreements, including commitments to confidentiality, are so important. As concerns funding, staff does not expect there to be increased costs from occasional 1-2 hour meetings but notes that Elder Abuse Direct Service dollars can be used to support some of the I-Team's efforts.

6. Funding – Many counties responded with concerns that the recommendations would ultimately require significant funds for implementation. Ultimately, however, staff expects recommendations to *decrease* workloads due to increased coordination as well as the emphasis on prevention. In the meantime, staff is working on identifying additional funding sources. Certainly, the new Elder Abuse Direct Service Funds should address significant needs.

(Article Summary on page 9)

APS Modernization Project Feedback (continued from page 8)

SUMMARY

In sum, the APS Modernization Project staff greatly appreciated the extensive, thoughtful and constructive comments received in response to the Project report. Overall, the responses have been very positive and indicate a broad base of support for the serious efforts of the Committee. The many written comments received, combined with the discussions that have taken place in group and association meetings with Project staff have resulted in many excellent ideas to further improve the report. The full Project report and a summary of the comments have been presented to DHFS Secretary Phyllis Dubé who enthusiastically endorsed the report. Project staff is therefore incorporating most of these suggestions as we begin to craft proposed statutory language and make future plans for training programs and collaborative efforts.

Thank you to all who took the time to read the Project report and offer comments!



If you would like to contribute information or have other ideas for topics for this newsletter, please contact:

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Adult Protective Services Newsletter

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